



**HISTORIC LANDMARK COMMISSION MEETING MINUTES**  
**1<sup>st</sup> FLOOR, CITY COUNCIL CHAMBERS**  
**CITY HALL BUILDING, 300 N. CAMPBELL**  
**JANUARY 27, 2014**  
**4:00 P.M.**

The El Paso Historic Landmark Commission held a public hearing in the City Council Chambers, 1<sup>st</sup> Floor, City Hall Building, January 27, 4:00 p.m.

The following commissioners were present:

Chairman David Berchermann  
Commissioner Beatriz Lucero  
Commissioner Randy Brock  
Commissioner Cesar Gomez  
Commissioner Ricardo Fernandez  
Commissioner John L. Moses

The following commissioners were not present:

Commissioner Edgar Lopez  
Commissioner William C. Helm II

The following City staff members were present:

Ms. Providencia Velázquez, Historic Preservation Officer, City Development Department, Planning Division  
Ms. Kristen Hamilton, Assistant City Attorney, City Attorney's Office

Chairman Berchermann called the meeting to order at 4:09 p.m., quorum present.

**CHANGES TO THE AGENDA**

*None.*

**I. CALL TO THE PUBLIC – PUBLIC COMMENT**

*None.*

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Oscar Leeser

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## II. REGULAR AGENDA – DISCUSSION AND ACTION

### Certificate of Appropriateness

1. **PHAP14-00001:** 9 Sunset Heights S. 90 ft. of E. 20 ft. of 19 and S. 90 ft. of W. 15 ft. of 20 (3150 sq. ft.), City of El Paso, El Paso County, Texas
- Location: 629 Prospect Street
- Historic District: Sunset Heights
- Property Owner: Kerran Fowlkes
- Representative: Kerran Fowlkes
- Representative District: 8
- Existing Zoning: A-2/H (Apartments/Historic)
- Year Built: 1904
- Historic Status: Contributing
- Request: Certificate of Appropriateness for the landscaping of the front yard and parkways with hardscape exceeding 50%
- Application Filed: 1/16/14
- 45 Day Expiration: 3/2/14

Ms. Velázquez gave a presentation and noted the property owner sought approval for a Certificate of Appropriateness for the landscaping of the front yard and parkways with hardscape exceeding 50%. Per the presentation photographs, Ms. Velázquez noted the six trees in the front yard had grown significantly since the photo was taken 14 years ago. She explained that the property owner would like to keep the trees; however, feels that landscaping with native plants or greenery in the front yard and parkway would not work for the following reasons:

1. Quite a bit of clay and dust in the front yard and parkway;
2. Parkway is used for placement of trash receptacles; and
3. The neighborhood cats love his front yard.

Ms. Velázquez explained the property owner submitted both the site and landscaping plans. Per the landscaping plan, the property owner proposes to keep the existing six trees in the front yard; additionally, for the parkway, the property owner proposes to install plants on the left side and pavers on the right for the trash receptacles. The property owner has proposed mottled gravel for the front yard, rather than native plants or greenery, to dissuade the neighborhood animals from destroying the front yard.

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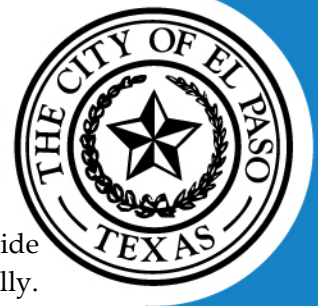
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Ms. Velázquez highlighted the size, number of trees and noted the trees provide excellent shade thus preventing any vegetation from growing successfully. Finally, the property owner wants to clean up and improve the property. Ms. Velázquez explained due to water prices, shortages, etc., lawns are no longer lush and green, as in the 1940s, '50s, etc. The guidelines recommend 50% ground cover (trees included) and 50% gravel or something else. Regarding how a tree is measured, Ms. Velázquez stated she spoke with a landscape architect who explained that trees are measured by the size of the root ball. It would be very difficult to measure the tree root balls for the existing trees.

**STAFF RECOMMENDATION:**

The Historic Preservation Office recommends **APPROVAL WITH MODIFICATIONS\*** of the proposed scope of work based on the following recommendations:

The Design Guidelines for El Paso's Historic Districts, Sites, and Properties recommend the following:

- *Grass and sod may be removed from front yards, side yards on a corner provided not more than 50% of the area is covered with gravel or other masonry. Grass and sod may be removed from parkways provided not more than 50% of the area is covered with gravel or other masonry that is made of impervious materials (brick pavers, gravel, and masonry pavers). The remaining 50% must be covered with trees and living plants that provide ground cover.*
- *Retain mature trees that contribute to the character of the historic district.*

The Secretary of the Interior's Standards for Rehabilitation recommend the following:

- *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

**\*THE MODIFICATIONS ARE**

- 1. THAT THE CURRENT TREES BE RETAINED;**
- 2. THAT IF THE TREES HAVE TO BE REMOVED THAT THEY BE REPLACED IN KIND; AND**
- 3. THAT SEVERAL MORE PLANTS BE PLANTED IN THE PARKWAY TO MEET 50% OF THE DIMENSIONS OF THE PARKWAY.**

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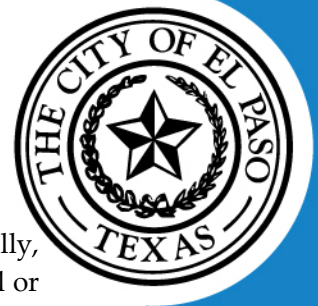
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Chairman Berchelmann asked what color the pavers would be; additionally, what material is the property owner proposing to use in the front yard, gravel or rock.

Ms. Velázquez responded terra cotta pavers and the property owner is proposing to use gravel.

Mr. Kerran Fowlkes, property owner, brought with him a sample of the proposed gravel for the commissioners.

Chairman Berchelmann asked Mr. Fowlkes if he would be installing an irrigation system or hand water the plants for the parkways.

Mr. Fowlkes responded he would hand water the plants.

**MOTION:**

*Motion made by Commissioner Brock, seconded by Commissioner Fernandez AND UNANIMOUSLY CARRIED TO APPROVE.*

2. Addresses of property HLC commissioners have requested that HLC staff review or investigate and provide a report to the HLC. If no addresses are submitted in advance and listed under this agenda item, commissioners may announce such addresses under this agenda item. Discussion on property announced at this meeting will take place during the next regularly scheduled meeting. January 27, 2014 deadline for HLC members to request for agenda items to be scheduled for the February 10, 2014 meeting. February 10, 2014 deadline for HLC members to request for agenda items to be scheduled for the February 24, 2014 meeting.

**UPDATE REGARDING THE PROPERTY LOCATED AT 4607 HASTINGS**

Ms. Velázquez explained the property owner has not constructed a circular driveway in the front; however, the property owner has constructed a fence in the rear. Ms. Velázquez will contact Code Enforcement staff.

**HLC Staff Report**

3. Update on Administrative Review Cases since the last HLC meeting for the properties listed on the attachment posted with this agenda.

Chairman Berchelmann asked commissioners if they had any comments and/or questions for staff. *There were none.*

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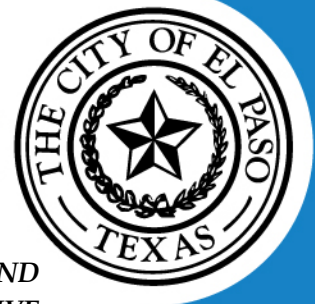
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**MOTION:**

*Motion made by Commissioner Lucero, seconded by Commissioner Moses AND UNANIMOUSLY CARRIED TO APPROVE THE ADMINISTRATIVE REVIEW STAFF REPORT.*

**Other Business**

4. Update on 1431 Hawthorne

Ms. Velázquez noted this property was presented to commissioners in October, 2013. This is a two-story house located in the Sunset Heights Historic District.

Ms. Velázquez presented photos of the front and rear of the property:

1. *From 2000;*

2. *1<sup>st</sup> contractor debacle; and*

Without proper permits, the contractor had stuccoed the river rock piers (front) and the entire façade – front, back and sides. Additionally, the contractor destroyed many character defining features of the home. When Code Enforcement staff notified the property owner, via issuance of violation notices, the property owner promptly fired that contractor and hired a licensed, bonded contractor.

Ms. Velázquez thanked Code Enforcement staff for preventing the contractor from further destruction. She noted that she was able to remove the stucco from the home with her bare hands demonstrating the appalling workmanship. However, the contractor applied the stucco on the masonry piers in such a fashion that removing it was difficult, if not impossible.

While at the site, Ms. Velázquez spoke with the licensed, bonded contractor to try and keep these piers; if not he was to follow the guidelines, as faithfully as possible, reconstructing the piers to their original state.

3. *As the home looks today*

While removing the stucco from the first floor, the licensed, bonded contractor found the brick not only painted but coated, too. The coating adhered to the brick so tightly that it would not come off. Because the brick was previously painted, Ms. Velázquez recommended the licensed, bonded contractor paint the brick to match the underlying brick.

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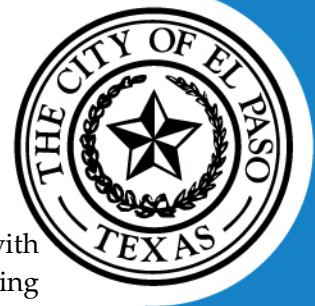
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It was necessary for the contractor to reconstruct the masonry piers with the contractor following the guidelines as faithfully as possible. Being that the house is approximately 100 years old it was somewhat difficult to match the river rock exactly; however, the contractor did come very close. Furthermore, the contractor was very diligent in asking Ms. Velázquez for her opinion whenever he came across a concern.

Chairman Berchelmann noted the neighbors must be pleased with the outcome. Although staff cannot recommend contractors, this contractor is a keeper.

Ms. Velázquez wanted to update the commissioners as to the status of this project so that they might see that the decisions they make carry a lot of weight. This project serves as a great example when someone says *it can't be done because this project demonstrates that it can be done*.

Ms. Velázquez noted the property owner would appear before commissioners sometime in the future, as she is wanting to landscape her property.

Chairman Berchelmann stated the guidelines are in place to help property owners increase the value of their properties. The before and after photos are incredible.

5. Update on 100 E. San Antonio (First National Bank Building) as per Chairman Berchelmann's request.

Ms. Velázquez gave a presentation and explained, in total; several structures were demolished due to fire.

1. First National Bank Building, built in 1880, the property had been designated both *contributing* and a *Landmark*. The structure, considered one of the oldest within the Downtown Historic District, was a significant loss for the Downtown Historic District.
2. Adjacent the First National Bank Building was a structure whose façade had been redesigned by Trost & Trost, was designated a *non-contributing* property due to the alterations. According to the Legal Department's interpretation of the ordinance, because this is a *non-contributing* property, any new construction will not come before the commission.

#### **PROPOSED PARKING LOT**

City Development Department – Economic Development Division

P.O. Box 1890 | El Paso, Texas 79950-1890 | (915) 541-4027

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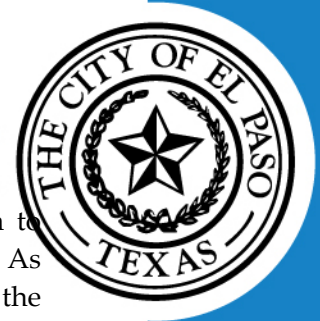
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Ms. Velázquez explained that she had recently received an application to turn the corner property into a parking lot, with a fence around it. As nothing exists on this property, the Legal Dept. has determined that the *contributing* status was removed; therefore, the proposed parking lot will not come before the commission.

Chairman Berchermann asked Ms. Velázquez for the definition of *contributing*.

Ms. Velázquez read into the record the following definitions as shown in the El Paso Municipal Code, Chapter 20.20 Historic Landmark Preservation, Section 20.20.020 Definitions,

*"Contributing property" means a building, object, site or structure, in an historic district or "cluster" that contributes to the district's or cluster's historical significance through location, design, setting, materials, workmanship, and/or association.*

Ms. Velázquez explained *Landmark* designated structures are so exceptional, even if the structure(s) was not located within an historic district, designating the structure(s) would be that important. She then read the following definition into the record:

*"Historic landmark" also referred to as an "H-overlay" property, means those buildings, objects, sites or structures of historical, cultural, architectural or archaeological importance and whose demolition or destruction would constitute an irreplaceable loss to the quality and character of El Paso; certain inventoried interior spaces which are accessible to the public; such buildings, objects, sites or structures, their appurtenances, and the property which they are located, having been so designated by city council.*

Commissioner Gomez clarified new construction on non-contributing properties do not have to come before the commission. He was under the impression that the construction for the proposed addition for the Muir Building would be presented before commissioners.

Ms. Velázquez responded unfortunately not because an ordinance, enacted in 1992 after the Downtown Historic District was designated, states non-contributing properties do not have to comply with the Downtown Historic District guidelines. She explained that, for the longest time, the City had requested applicants submit their applications, plans, etc., for presentation before the commission. However, that ordinance language has since been

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reinterpreted by the Legal Dept. to mean that non-contributing property owners do not have to comply with the guidelines. Therefore, new buildings could be constructed without having to come before the commission.

Chairman Berchelmann asked why the piece of land, where the building once stood, would not be considered *contributing*. Just because the building no longer exists does not mean the site, on which significant historic event(s) occurred, should lose its historic value.

Ms. Hamilton responded that same question was vetted through the Legal Department. It was determined that the building is what was considered *contributing*, having the features that created the significance which made the structure rise to the level of a *contributing* property. Ms. Hamilton read into the record the following definition as shown in the El Paso Municipal Code, Chapter 20.20 Historic Landmark Preservation, Section 20.20.020 Definitions, *"Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building, structure, or cluster, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.*

Ms. Hamilton added, in this case, staff looked back and did not find anything that would make the site, itself, contributing apart from beauty of the structure. Chairman Berchelmann asked staff if there any record(s) of historical events that occurred on that site.

Ms. Velázquez recalled John Wesley Hardin's office was located there. Mr. Hardin was definitely a significant character in the history of El Paso. After significant research, Ms. Velázquez was positive she would find evidence of significant events or happenings having occurred on the property. To clarify, the historic designation was based on the structure, not the site.

For clarification, Commissioner Gomez asked if this building had not burned down but the property owner applied for a Certificate of Demolition, which the commission denied. The property owner then appealed to the City Council who overturned the commissioners' denial and approved the Certificate of Demolition and the building was subsequently demolished. Commissioner Gomez asked would any new proposed construction come before the commission,

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Commissioner Fernandez interjected the request to demolish was approved by the City Council.

Ms. Hamilton concurred and added because City Council did take action after the building burned there was no emergency action taken to demolish. Due to the City Council taking action to allow the demolition, the property loses its historic significance.

Chairman Berchermann felt City Council was somewhat shortsighted in their designating just the structure as *contributing* and not the site as well. He felt that the property the structure was constructed on should also be designated. Chairman Berchermann requested that, in the future, when designating structures, the site be also included. He wondered if this might be done retroactively for the buildings that are currently located within the Downtown Historic District.

Ms. Velázquez suggested removing language from the ordinance whereby non-contributing buildings do not have to comply with the guidelines. The Downtown Historic District is the only district she has seen, having worked in the Historic Preservation field for over 20 years; that has language stating non-contributing properties do not have to comply with the guidelines. A property, currently designated non-contributing, could be designated a contributing property sometime in the future.

Chairman Berchermann suggested establishing some kind of recognition on the site, a plaque or something.

Commissioner Gomez remembered staff had previously tried to remove that language from the ordinance.

Ms. Velázquez explained last year she had tried to bring the ordinance before Council; however, the Representative for that district removed the item from the agenda.

Ms. Hamilton clarified the representative had the item removed prior to Municipal Clerk's office staff posting the agenda on the website and bulletin board outside City Hall.

6. Approval of Regular Meeting Minutes for November 18, 2013 and December 16, 2013.

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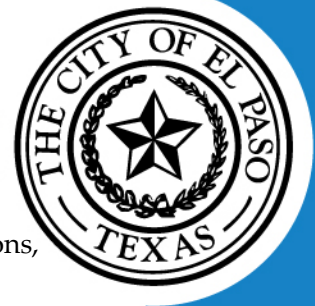
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Chairman Berchermann asked commissioners if they had any additions, corrections, and/or revisions for staff. *There were none.*

**MOTION:**

*Motion made by Chairman Berchermann, seconded by Commissioner Lucero AND UNANIMOUSLY CARRIED TO APPROVE THE NOVEMBER 18, 2013.*

*ABSTAIN: Commissioners Fernandez and Moses*

**MOTION:**

*Motion made by Chairman Berchermann, seconded by Commissioner Lucero AND UNANIMOUSLY CARRIED DECEMBER, 16, 2013 REGULAR MEETING MINUTES.*

7. Presentation/Discussion regarding ethics for commissioners and policy on speaking to the media regarding Historic Landmark Commission matters outside meeting settings.

Ms. Hamilton explained the item is on the agenda to allow staff the opportunity to respond to Commissioner Moses' concern regarding speaking to the media regarding matters that come before the commission. She recommended commissioners review **Chapter 2.92 ETHICS** of the El Paso Municipal Code periodically. Ms. Hamilton noted there is nothing in Chapter 2.92 that restricts commissioners from speaking to the media regarding matters that come before you; it is the commissioner's prerogative. If commissioners prefer not to speak to the media, Ms. Hamilton recommended commissioners refer media personnel to the appropriate City staff.

When speaking to the media, Ms. Hamilton cautioned commissioners not to speak on behalf of the commission as a whole. For example, we will be voting in favor of or in opposition to (whatever).

She reiterated, if commissioners are uncomfortable speaking to the media, she recommended commissioners defer to City staff.

Commissioner Moses clarified there is *no* restriction regarding commissioners speaking to the media.

Ms. Hamilton concurred; however, she reiterated that commissioners cannot speak on behalf of the entire commission, as a whole.

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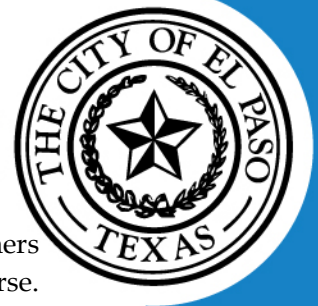
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### **ETHICS TRAINING FOR COMMISSIONERS**

Per Chapter 2.92.120 Ethics training, Ms. Hamilton explained commissioners are required to complete the initial and/or refresher ethics training course. Staff maintains records of commissioners who have/have not completed the training course.

Commissioner Moses noted it would be a violation of the Open Meetings Act for five or more commissioners to address the media at the same time, in the same location.

In the event three or more commissioners are at the same event at the same time, Ms. Hamilton cautioned commissioners to avoid the *walking quorum* of the Open Meetings Act.

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Prior to adjourning, Chairman Berchermann asked Ms. Velázquez to update Commissioners regarding the following:

1. Martin Building, Lane Gaddy project.

Ms. Velázquez explained Mr. Gaddy applied for building permits before the end of the year. Additionally, Mr. Gaddy had incorporated the changes as requested by commissioners. Mr. Gaddy will be pursuing tax credits, state and/or local. Furthermore, the Texas Historical Commission has reviewed the application, their comments were very similar to commissioners. Ms. Velázquez was unsure when actual construction would begin.

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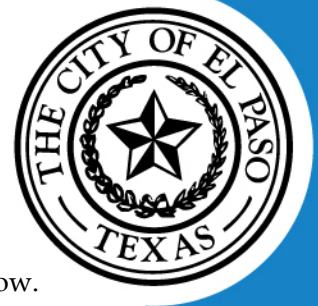
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2. Tejas Building, façade change

Ms. Velázquez explained contractors are working on the façade now. She was unsure when construction would be complete. She noted the historic status for this property is non-contributing, therefore, according to the City's Law Dept. the approval for the new storefront did not have to come before commissioners.

3. Mirrored facade

The mirrored façade is complete. Ms. Velázquez explained the contractor painted the marble behind the façade. Staff issued a stop work order and instructed the contractor to remove the paint, which he has. The historic status for this property is also non-contributing. Because the installation of new storefronts are covered in the guidelines, the City's Legal Dept. does not believe that the request had to come before commissioners.

**MOTION:**

*Motion made by Chairman Berchermann, seconded by Commissioner Lucero AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING AT 4:49 P.M.*

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